

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 14, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No: 07od-067

OAHU

Amend Prior Board Action of May 25, 2007, Agenda Item D-5,
Quitclaim of State's Interests, if any, in Bannister Place
to the City and County of Honolulu, Kalihi, Oahu, TMK: (1)
1-2-14:road

BACKGROUND:

On May 25, 2007, agenda item D-5, the Board approved the quitclaim of State interest, if any, in the subject roadway parcel to the City and County of Honolulu. A copy of the approved submittal is attached at Exhibit A.

REMARKS:

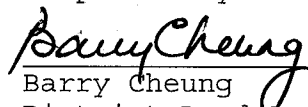
The Trust Land Status on the 2007 submittal (Exhibit A) is marked "Section 5(b) lands of the Hawaii Admission Act", which means that it is a portion of the ceded lands.

Upon further research, staff notes that the subject roadway parcel was conveyed from the private owner to the Territory of Hawaii in 1954 by Land Office Deed No. 12065. Therefore, the trust land status of the subject parcel should be amended as "Section 5(a) lands of Hawaii Admission Act." For record purposes, staff recommends the Board amend its prior action of May 25, 2007, item D-5 by amending the trust land status in the submittal from "Section 5(b)" to "Section 5(a)".

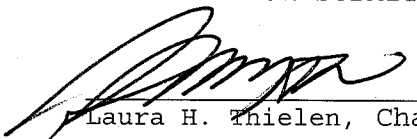
RECOMMENDATION: That the Board:

1. Amend its prior Board action of May 25, 2007, under agenda item D-5 by amending the trust land status in the submittal from "Section 5(b)" to "Section 5(a)" of Hawaii Admission Act.
2. All terms and conditions listed in its May 25, 2007, item D-5 approval to remain the same.

Respectfully Submitted,


Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


Laura H. Thielen, Chairperson *lwt*

D-14

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 25, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 070D-067

OAHU

Quitclaim of State's Interests, if Any, in Bannister Place
to the City and County of Honolulu, Kalihi, Oahu, Tax Map
Key: (1) 1-2-14:

APPLICANT:

City and County of Honolulu whose business and mailing address is
650 South King Street, Honolulu, Hawaii 96813.

LEGAL REFERENCE:

Sections 171-95(a)(5) and 264-2, Hawaii Revised Statutes, as
amended.

LOCATION:

Portion of Government lands situated at Kalihi, Oahu, identified
by Tax Map Key: (1) 1-2-14:, as shown on the attached map labeled
Exhibit A.

AREA:

9,574 square feet, more or less, to be determined by survey.

ZONING:

State Land Use District: Urban
City & County of Honolulu LUO: n/a

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO x

CURRENT USE STATUS:

Existing County road.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

May 25, 2007

EXHIBIT " "

CONSIDERATION:

Not applicable.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Not applicable.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

By letter dated April 5, 2007, Mr. Eugene c. Lee, P.E., director for Department of Design and Construction is requesting the fee conveyance of Bannister Place because a portion will be sold to an adjacent property owner through a land exchange to create a turn around area.

Pursuant to Section 264-2, HRS, the ownership of all "public highways" (roads, alleys, streets, ways, lanes, bikeways, and bridges in the State, opened, laid out, or built by the government) are owned either by the State for state highways under the jurisdiction of the Department of Transportation or the county for all other public highways. While ownership was transferred by operation of law pursuant to this statutory section, the counties have continued to dispute that they own the roads because they do not have paper title.

Act 288, SLH 1993, stated in its preamble "In consideration of the State waiving its right to have the proceeds from the sale of county public highways remitted to the State, the counties shall acknowledge ownership and jurisdiction of all disputed public highways within their respective counties, as defined in section 264-1, HRS, without the necessity of conveyancing documents transferring title from the State to the respective counties, except when required for the purpose of disposal." (Emphasis added.)

As a result, it is staff's practice that formal documentation (i.e., quitclaim deeds) be issued on roads owned by the counties under Section 264-2, HRS, only when the county is going to subsequently dispose of any real property interests (fee conveyance or any interests less than fee) in at least a portion of the road to a third party. In all other cases, the State's position is that the fee simple interest in the road was passed to the counties by operation of law and documentation is unnecessary. This policy provides for the chain of title and enables subsequent real estate transactions to occur. This policy should not be misconstrued to mean or imply that the State does not assert that the roads being

quitclaimed are already owned by the applicable county.

To enable the City & County of Honolulu to sell a portion of Bannister place to an adjacent property owner (tmk: 1-2-14:91), staff is recommending the issuance of a quitclaim deed. The form of the deed has been approved by the Department of the Attorney General and contains specific wording that the State is releasing and disclaiming any interest since it is our assertion that the County already owns the road.

Comments were solicited and their statements are listed below:

DHHL	No response
DOT-Highways	No comments
City DPP	No response
City Environmental Services	No objections
OHA	No comments

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above authorize the quitclaim of interests, if any, the State may have in the subject roadway parcel to the City and County of Honolulu covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

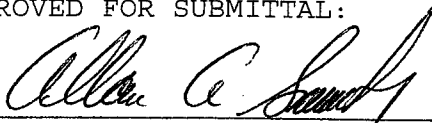
- a. The standard terms and conditions of the most current quitclaim deed (roads) form, as may be amended from time to time;
- b. Review and approval by the Department of the Attorney General; and
- c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Charlene E. Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Allan A. Smith, Interim Chairperson

58447

DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11TH FLOOR
HONOLULU, HAWAII 96813

Phone: (808) 768-8480 • Fax: (808) 523-4567

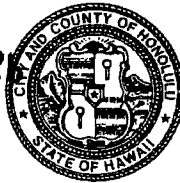
Web site: www.honolulu.gov

RECEIVED
LAND DIVISION

RECEIVED

MUFI HANNEMANN
MAYOR

2007 APR -9 P 3:26



'07 APR -9 48:38

EUGENE C. LEE, P.E.
DIRECTOR

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

CRAIG I. NISHIMURA, P.E.
DEPUTY DIRECTOR

LA 07-148.JK

April 5, 2007

Mr. Peter T. Young, Chairperson
Department of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Young:

Subject: Bannister Place
Request for Fee Simple Interest
Tax Map Key No. 1-2-014

Our records indicate that title to Bannister Place remains with the State. The City accepted jurisdiction and maintenance of Bannister Place by Resolution 93-287, CD-1, FD-1. In accordance with the resolution we are now requesting the conveyance of the fee title of Bannister Place to the City.

Enclosed are two (2) sets of the description for Bannister Place along with a copy of the Land Court Map. Your cooperation on this matter is greatly appreciated. You can call Stephen Chun of the Land Division at 768-8701 if you have any questions.

Very truly yours,

For Eugene C. Lee, P. E.
Director

ECL:jk

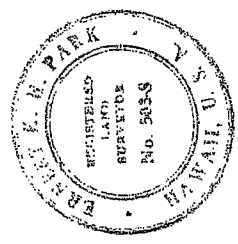
Enclosures

EXHIBIT "A"

True North
Scale: 1"=40'

LAND COURT
TERRITORY OF HAWAII
LAND COURT APPLICATION 869

SUBDIVISION OF LOT 3-K-1
AS SHOWN ON MAP 5
INTO LOTS 9 TO 18 (INCLUSIVE)
AND DESIGNATION OF EASEMENT 19 ACROSS LOT 10
AT KALIHU-KAI, HONOLULU, OAHU, T.H.



PARK & PARK
Engineers & Surveyors
BY: *[Signature]*
Surveyor and Maker of Plan
Registered Certificate No. 5033

34-5 Beretania Street
Honolulu, Oahu, T.H.
December, 14 1953

OWNERS: Philo Rufus Silva and
Annie Freitas Silva

OWNERS' CERTIFICATE OF TITLE: 55,497

AUTHORIZED AND APPROVED BY ORDER OF THE
JUDGE OF THE LAND COURT DATED: JANUARY 29, 1954
BY ORDER OF THE COURT

[Signature]
REGISTRAR OF THE LAND COURT

Filed Jan. 18, 1954
[Signature]
Registrar

NOTE:
Area of Easement 19
= 590 Sq. Ft.

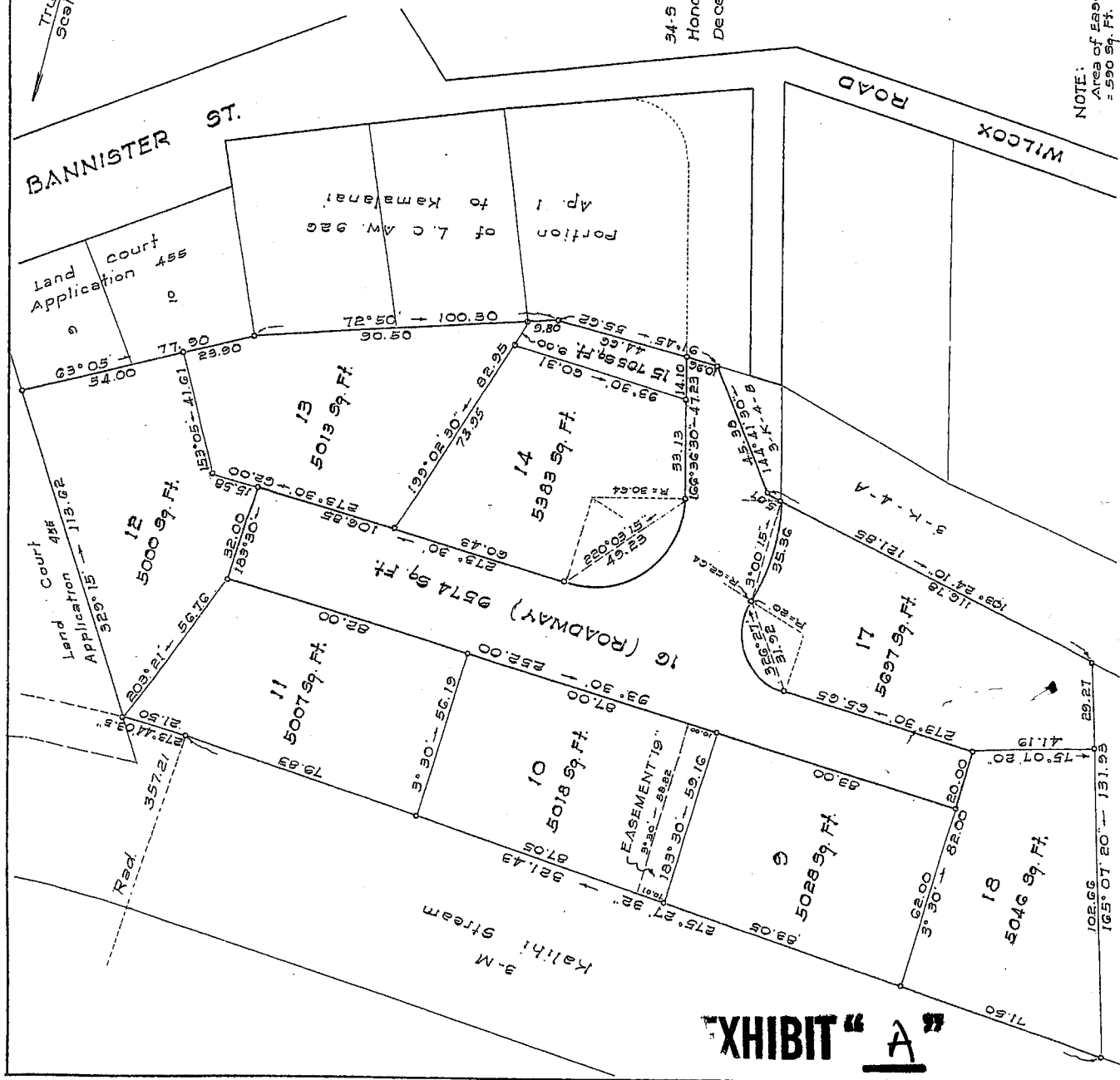


EXHIBIT "A"